

REMARKS

The Board mailed its Decision on Appeal on June 2, 2008, reversing the Examiner's grounds of rejection (Dec. at 8-9 & 11) and entering new grounds of rejection (Dec. at 10) pursuant to 37 CFR § 41.50(b). This paper is timely filed within two months of mailing of the decision. MPEP § 1214.01.

The Board wrote:

Using our authority under 37 C.F.R. 54.50(b), we reject claims 1, 2, and 4-7 under 35 U.S.C. § 112, second paragraph, as being indefinite. We note that Appellants present a definition for the claim term "window" in the Specification, as follows:

In the present disclosure, the term "window" is used to refer to any mechanism for presenting information to a user. Thus, the term "window" also includes message boxes, dialog boxes, text boxes, banners, *etc.* A window may be associated with a web browser, or may be generated as a result of receiving information from another computer over a computer network or from a local computer program.

(Spec. p. 5, l. 19 through p. 6, l. 1) (emphasis added).

We particularly note the use of the broadening term "etc." (*Lat. et cetera - and so forth*) to expand the scope of the claimed "window" to encompass an open set. Thus, as supported by Appellants' Specification, the scope of the claimed "window" broadly encompasses all means, including future, unknown means, for presenting information. Therefore, we conclude that the instant claims have undue breadth and do not positively set forth that which Appellants' regard as their invention. Accordingly, we conclude that claims 1, 2, and 4-7 are indefinite under 35 U.S.C. § 112, second paragraph. We note that our rationale here (undue breadth) is altogether different than the rationale applied by the Examiner under 35 U.S.C. § 112, as discussed *supra*.

(Dec. at 10)

For new grounds of rejection, one would normally expect the Board to discuss the effect of the dependent claims on the broadest reasonable interpretation of the term "window", which did not happen. The key passage from the Board's rejection is, "window" broadly encompasses all means, including future, unknown means, for presenting information."

To avoid the interpretation that window would include means for presenting information, which presumably would include audio or direct neural means (future,

unknown means), we have selected the term “display window”, by which we mean a graphical display window. Examples of graphical display windows that are parts of typical graphical user interfaces include message boxes, dialog boxes, text boxes, banners. Display windows are used for display on computers, monitors, cell phones and PDA screens. The term “display window” is used widely enough to have meaning to one of ordinary skill in the art. The following are examples of patents that use “display window”, sometimes in the specification and other times in the claims.

Patent number: 5513342, Display window layout system that automatically accommodates changes in ... Kevin K. Leong et al

Patent number: 6456305, Method and system for automatically fitting a graphical display of objects ... Imran I. Qureshi et al

Patent number: 6710790, Methods and apparatus for tracking the active window of a host computer in a ... James O. Fagioli

Patent number: 6147683, Graphical selection marker and method for lists that are larger than a ... Anthony Edward Martinez et al

Patent number: 5060170, Space allocation and positioning method for screen display regions in a ... Nancy E. Bourgeois et al (“In display screen or system technology, a window is a viewing area on the video display. It may be the full screen region or a smaller region represented within a border of typically rectangular shape into which data from application programs and the like may be written for display. One or more windows may appear on the face of a video display screen.”)

Patent number: 5577187, Method and system for tiling windows based on previous position and size. Rico Mariani

From this list, there should be no doubt that use of the term “display window” has been approved and is meaningful to those of skill in the art.

Therefore, the § 112 rejection should be considered overcome by the amendment.

CONCLUSION

Applicants respectfully submit that the pending claims are now in condition for allowance and thereby solicit acceptance of the claims as now stated.

Applicants would welcome an interview, if the Examiner is so inclined. The undersigned can ordinarily be reached at his office at (650) 712-0340 from 8:30 a.m. to 5:30 p.m. PST, Monday through Friday, and can be reached at his cell phone at (415) 902-6112 most other times.

Fee Authorization. The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 50-0869 (CLAR 1054-1).

Respectfully submitted,

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/Ernest J. Beffel, Jr./
Ernest J. Beffel, Jr.
Registration No. 43,489
Attorney for Applicant

HAYNES BEFFEL & WOLFELD LLP
P.O. Box 366
637 Main Street
Half Moon Bay, CA 94019
Telephone: (650) 712.0340
Facsimile: (650).712.0263